

Suneel Jatley and Others

Vs

State of Haryana and Others

Ajay Kumar Chaudhary

Vs

Maharshi Dayanand University, Rohtak and Others

Miss Manisha Rathi (Minor) through her Father

Vs

Maharshi Dayanand University, Rohtak and Others

Writ Petition Nos. 7014, 7426-28, 7419, etc.

(D. A. Desai, O. Chinnappa Reddy JJ)

30.07.1984

JUDGMENT

DESAI, J. -

1. As the matter brooked no delay, at the conclusion of the arguments, the Court pronounced the following order reserving reasons to be given at a later date.

The petitions succeed to the extent herein indicated. Let a writ be issued quashing reservation of 25 seats in favour of candidates coming from rural areas and educated in common rural schools for admission to MBBS Course 1982 at Medical College, Rohtak affiliated to Maharshi Dayanand University. Consequently the respondents are directed to admit in first MBBS Course of the same college commencing from July 1983, such number of students who secured admission against the reservation for candidates coming from rural areas and educated in common rural school in 1982, according to the general merit list drawn up in respect of candidates, who sought admission and in the absence of such a list, a waiting list should be drawn up according to merits, for the year 1982. The respondents are directed to work out the admissions as per the direction herein made before May 31, 1983 and give intimation to the students who become eligible for admission.

There will be no order as to costs.

Reasons to follow.

Here are the reasons.

2. In this group of petitions under Article 32 of the Constitution, the petitioners questioned the validity and legality of reservation of 25 seats for candidates coming from rural areas for admission

to First MBBS/BDS Course for 1982 session in the Medical Faculty of the third respondent - Maharishi Dayanand University, Rohtka (University' for short). The University issued a prospectus on June 12, 1982 inviting applications for appearing at an entrance test for selecting candidates for admission to MBBS/BDS Course, 1982. In this prospectus, reserved seats were shown as under :

(A) Reserved Seats :

#Categories No. of Seats(a) Scheduled Casts/Tribes .. 30(b) Rural areas .. 25##

(i) Out of these 5 are reserved for girls, if available otherwise these will also be for boys.

(ii) For deciding the eligibility of a candidate from rural areas, the following criterion will be observed :

A candidate must have received education from class I to class VIII and passed eighth class examination from a common rural school situated in any village not having any Municipality or Notified Area or Town Area Committee. For this purpose a certificate is required to be submitted which may be seen in Appendix 'C'

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In short out of a total of 148 seats available for admission, 80 seats were to be filled-in according to the merits list drawn up on the performance at the entrance examination and the rest were reserved for different classes of candidates. The petitioners challenge only the reservation of 25 seats for candidates coming from the rural areas as being violative of Articles 14, 15(4) and 29(2) of the Constitution inasmuch as the classification is arbitrary, unintelligible and unrelated to the objects sought to be achieved and not saved by Article 15(4). It was alleged that to classify candidates on the basis of their education in a school in rural area and urban area is irrational inasmuch as before seeking admission to the Medical Faculty even the student coming from rural areas and having been educated in common rural school from first to eighth standard would have taken further education for a period of 4 years before seeking admission to the medical college. It was therefore said that earlier education from first to eighth standard either in urban schools or common rural schools both having identical syllabus and examination evaluation prescribed by a common authority is hardly of any relevance while considering the merit for admission to the medical college more so because all students coming either from urban schools or those educated in common rural schools were required to undergo further education for a period of 4 years after the eighth standard in urban schools or schools which can be compared with urban schools. The petition contend that the reservation is not sustainable under Article 15(4) because candidates educated in common rural schools cannot as a class be said to be socially and educationally backward and therefore, the reservations would not satisfy the test prescribed by Article 15(4) of the Constitution. The petitioners aver that the syllabus for first to eighth standard adopted in common rural schools and urban schools is entirely identical prescribed by the same Government and the qualification of teachers for being appointed in the urban schools or the common rural schools is the same and they are transferable from one area to the other area. It was also contended that the majority of the population in the State of Haryana as in the whole country is residing in rural areas and the reservation in favour of majority would be void ab initio. Lastly it was said that the classification apart from being arbitrary and irrational does not satisfy the twin test of it being based on intelligible differentia and having any nexus to the objects sought to be achieved. The petitioners say that some from amongst respondents 5 to 49 have been

admitted against reservation for candidates coming from rural areas and even though the petitioners had obtained higher marks at the entrance examination and were placed higher in the merit list yet they have been denied admission on account of the constitutionally invalid reservation and therefore, their admissions should be struck down and the University may be directed by a mandamus to reconsider the eligibility for admission after ignoring the reservation in favour of students of rural areas.

3. Mr. K. L. Guglani, Register of the University filed his affidavit-in-opposition inter alia contending that the classification and the consequent reservation is valid under Article 14 of the Constitution. It was submitted that in order to correct the regional imbalance in the matter of admissions to medical college, the Government of Haryana had carried out a simple survey of the Comparative facility/inequalities between the students of the schools situated in the rural and the urban areas at the primary, middle and high schools stages in 1979 which revealed that the students studying in common rural schools suffer from serious handicap such as non-availability of electric fans in summer and on the onset of rainy season, the difficulty of access to the school resulting in shortening of the academic year in such schools with consequent disadvantages in their academic achievement as compared to children in the urban schools where the academic sessions go undisturbed by extreme summer or rainy season. The sample survey further revealed that most of the common rural schools are ill-housed ill-staffed and ill-equipped. There is no provisions for regular medical check-up of students at any common rural schools resulting in the neglect for the upkeep of their health and this becomes a factor for the low achievements of students in rural schools. The sample survey also revealed that the teachers attached to common urban schools resulting in urban areas reached the school premises just in time to take the classes and leave soon after the school time is over thus denying the establishment of personal contact with the student resulting in the denial to such students an opportunity of development. It was further submitted that the students coming from urban areas after taking medical education declined to settle down in rural areas and this will help in extending medical facilities sorely needed for rural population. In order to correct this imbalance and the utter handicap felt by the students studying in common rural schools, students seeking admission were divided into two different classes based on intelligible differentia and that if the object of medical education is to extend medical facilities where it is needed the most, reservation for candidates coming from rural area would achieve the object and therefore, the state Government was perfectly justified in making this reasonable and rational classification.

4. At a later date Dr. D. C. Mehrotra, Director-Principal, Medical College, Rohtak filed affidavit-in-opposition on behalf of respondent 1 to 3 which appears to be a carbon copy of the affidavit filed by the Registrar Mr. Guglani.

5. The only question which needs answer is whether reservation of "25 seats for rural areas" for admission to 1982 session in the Medical College attached to the University is constitutionally valid. It must at once be made clear that the respondents did not at all attempt to sustain the reservation under sub-article (4) of article 15 which enabled the State to make special provisions for advancement of any socially and educationally backward classes of citizen or for the Scheduled Casts and Scheduled Tribes. The respondents contended that the reservation of 25 seats for candidates coming from rural areas is valid and can be sustained under Article 14 of the Constitution. Therefore, the question is : whether the classification between the students educated in urban school and common rural schools is based on any intelligible differentia which has a rational nexus to the object sought to be achieved ?

6. It is well-settled that Article 14 forbids class legislation but permits reasonable classification in

the matter of legislation. In order to sustain the classification permissible under Article 14, it has to satisfy the twin tests : (1) that the classification is founded on an intelligible differential which distinguishes persons or things that are grouped together from others left out of the group and (2) the differential must have a rational relation to the object sought to be achieved by the impugned provisions.

7. Does the classification on the basis of candidates coming from rural areas against urban area in the matter of admission to medical college satisfy the twin test. If the attempt at amplification of the classification resorted to by the respondents is ignored for the time being, the board classification is that the students coming from rural areas are classified separately for the purpose of admission to the medical college. The reservation is described in the prospectus as : "Rural areas - 25 sets". If the matter were to rest here, it would have been unnecessary to write this judgment in view of the decision of this Court in *State of U.P. v. Pradip Tandon* ((1975) 1 SCC 267 : (1975) 2 SCR 761 : AIR 1975 SC 563). In that case the State of U.P. had made reservation for admission to medical college in favour of candidates from rural, hill and Uttarakhand areas on the ground that the people coming from these areas belonged to socially and educationally backward classes. The reservation was challenged as being violative of Article 14 and 15 and not protected by Article 15(4). The State sought to sustain the classification under Article 15(4) urging that the object of the classification was the advancement of facility for medical education for candidates coming from reserved areas as the people coming from these areas belonged to socially and educationally backward classes. This contention was accepted in part and negated in part. Striking down reservation of candidates coming from rural areas, the Court held that reservation for rural areas cannot be sustained on the ground that the rural areas represent socially and educationally backward classes of citizens and the reservation appears to be made for the majority population of the State and on the ground of place of birth. The Court upheld reservation in favour of candidates from Hill and Uttarakhand areas on the ground that reservation was in favour of the people in these areas who belonged to socially and educationally backward classes of citizens. Distinguishing the case of reservation in favour of candidates coming from rural areas, the Court observed that the backwardness contemplated by Article 15(4) is both social and educational backwardness of the citizens, the accent being on classes of citizens socially and educationally backward and therefore, socially and educationally backward citizens cannot be equated with areas as a whole socially and educationally backward. The Court concluded that some people in the rural areas may be educationally backward, some may be socially backward and there may be few who are both socially and educationally backward but it cannot be said that all citizens residing in rural areas are socially and educationally backward. Accordingly, the reservation in favour of candidates coming from rural areas was held as constitutionally invalid. This reasoning would apply *mutatis mutandis* to the facts in the present case because the reservation is in favour of candidates coming from rural areas.

8. It was however, contended by Mr. P. P. Rao on behalf of the University that the Court should not merely confine itself to the headline in the prospectus but read the entire entry specifying reservation especially the condition of eligibility for the benefit of the reserved seats. Reading it thus it was said that the reservation was in favour of students not coming from rural areas but in favour of students who were educated in common rural schools. Proceeding along it was said that before making the reservation the State Government had undertaken a sample survey, portions of which are extracted in certain correspondence annexed to the affidavit-in-opposition which when examined in proper perspective would show that the students educated in common rural schools suffered certain handicaps and are comparatively at a disadvantage in the matter of attaining high merit for competing with students coming from urban schools and therefore, the State deemed it proper to extend the protection in the matter of admission to such handicapped students. This

submission was further amplified by saying that students coming from urban areas and joining medical colleges are generally disinclined to go to rural areas for rendering medical service while if students coming from urban areas are encouraged by reservation to take the medical education, one can reasonably expect them to return to the rural areas, the habitat of their childhood, and to make such rural places their field of activity, which would simultaneously extend medical service to rural areas which is otherwise ill-served in this behalf. It was pointed out that the common rural schools have neither laboratories nor library facilities and that they are ill-equipped, ill-housed and ill-manned in the matter of staff, facilities and equipment. To overcome these handicaps and to provide an opportunity to the students educated in such schools against fierce competition from students coming from well-equipped and manned by highly trained staff urban schools, the classification between the students coming from common rural schools and those coming from urban school in the matter of admission to the medical college satisfied the twin test of constitutionally valid classification.

9. Before anyone becomes eligible to compete for admission to the medical college in the year 1982, it was incumbent upon such a student to clear the twelfth standard examination. This is true in respect of all students seeking admission to medical college irrespective of the fact whether they have been educated in the common rural schools or urban schools. Now the reservation is in favour of candidates from rural areas which expression is amplified to mean "a candidate must have received education from class I to class VIII and passed class VIII examination from a common rural school situated in any village not having any Municipality or Notified Area or Town Area Committee". It would at once appear that every candidate seeking admission to medical college must have studied upto the class XII which would mean that even a candidate coming from the common rural school meaning thereby one who has taken his education upto eighth standard in such a school, yet subsequently he has joined a school which imparts education upto the twelfth standard. Such a candidate has joined a school for a period of 4 years after having come out of the common rural school. It is nowhere suggested that this education for 4 years by a student coming from common rural school is in a school which is either unequal to the urban school or comparatively ill-equipped, ill-housed or ill-staffed. The necessary inference that follows from this is that all students seeking admission to the medical college have at least taken education for the last 4 years, in schools which are comparatively similar. What then is the relevance of the education taken from class I to class VIII for the purpose of admission to a medical college. It was conceded that the specialised subjects which will qualify a student for appearing at the entrance examination for admission to medical college are to be selected from the eleventh standard onwards. It was also conceded that the syllabus for students from class I to class VIII either for urban schools or common rural schools is entirely identical and prescribed by the same authority, and this syllabus includes subjects of general knowledge. It does not provide any specialised knowledge. Therefore, it passes comprehension as to what importance can be attached to education from class I to class VIII for admission to medical college which is divided by a span of other 4 years that of class IX to class XII (both inclusive) and in respect of which students coming from all schools are similarly situated, similarly circumstanced and similarly placed and similarly treated and exposed to the same educational environments without the slightest difference. The question then is : can the previous differentiation, if there be any, provide a rational basis for classification. The answer obviously is in the negative. The knowledge acquired in the years spent from class I to class VIII is of a general nature exposing the student to reading, writing, understanding simple arithmetic, general knowledge of history, geography and introductory mathematics. The introductory knowledge of these subjects could hardly be said to equip a student for admission to medical college. The education imparted in classes IX and X is little more than introductory. In these classes, the student is being

prepared for deeper study. The selection of specialised subjects has to be made in classes XI and XII and in respect of education in classes IX to XII, all students being educated in all schools are similarly situated, similarly circumstanced and similarly placed with no differentiation. The earlier handicap of education in classes I to VIII, if there be any, becomes wholly irrelevant and of no consequence and therefore, cannot provide an intelligible differential which distinguishes persons say students seeking admission being grouped together as having been educated in common rural schools from these left out namely the rest. It would therefore, follow as a corollary that classification based on students coming from common rural schools meaning thereby educated upto first to eighth standard in common rural schools vis-a-vis students educated in urban schools from first to eighth standard would not provide intelligible differential for founding a classification thereon. The classification in such a situation will be wholly arbitrary and irrational and therefore the reservation based on such a classification would be constitutionally invalid. This view which we are taking finds support from a decision of this Court in *Arti Sapru v. State of Jammu and Kashmir* ((1981) 3 SCR 34 : (1981) 2 SCC 484 : 1981 SCC (L&S) 398 : AIR 1981 SC 1009) wherein this Court struck down reservation of 20 per cent. of the seats to be filled on the basis of inter se merit to ensure rectification of imbalance in the admission for various parts of the State, if any, so as to give equitable and uniform treatment to those parts. The Court following the decision in *Pradip Tandon case* ((1975) 1 SCC 267 : (1975) 2 SCR 761 : AIR 1975 SC 563) held that the classification attempted by the State suffers from the vice of arbitrariness and must be declared invalid.

10. It was however, contended on behalf of the respondents that the decision in *Pradip Tandon case* ((1975) 1 SCC 267 : (1975) 2 761 : AIR 1975 SC 563) would not be of any assistance and is distinguishable because in that case reservation was in favour of candidates coming from rural, hill and Uttarakhand area on the ground that people coming from these areas belonged to socially and educationally backward classes while the reservation in the instant case is founded on the lack of facility for education in common rural schools functioning in rural areas and also that in *Pradip Tandon case* ((1975) 1 SCC 267 : (1975) 2 761 : AIR 1975 SC 563), one of the contentions which found favour with the Court was that the reservation was in favour of a majority which aspect does not arise in the present case. In support of this submission, learned counsel for the respondents extensively read before us the decision of the Full Bench of the Punjab & Haryana High Court in *Amar Bir Singh v. Maha Rishi Dayanand University, Rohtak* (ILR (1980) 2 P&H 493). The Full Bench of the High Court presided over by the then learned Chief Justice upheld the impugned reservation. The High Court distinguished the decision in *Pradip Tandon case* ((1975) 1 SCC 267 : (1975) 2 761 : AIR 1975 SC 563) observing that the State sought to sustain the reservation under Article 15(4) contending that candidates coming from rural areas belonged to socially and educationally backward classes of citizens and the submission did not find favour with the Court through the Court unreservedly accepted that candidates coming from hill and Uttarakhand areas belonged to socially and educationally backward classes of citizens and sustained reservation in favour of the latter. It is true that the State did not attempt to sustain the reservation under Article 14 but certain observations in the judgment would leave no room for doubt that the aspect of valid classification was present to the mind of the Court. It was observed that 80 per cent. of the population reside in rural areas and it cannot be said to be a homogeneous class. Rural habitation cannot constitute it into class. And it is reservation related to place of birth. The Court thus examined whether candidates coming from rural areas constitute a distinct homogeneous class for the purpose of admission to medical college and rejected it. The High Court in *Amar Bir Singh case* (ILR (1980) 2 P&H 493) on the contrary attempted to sustain the classification of students educated in common rural schools which does not carry conviction. Having read this judgment minutely and with care and attention that a judgment of the Full Bench of High Court bearing on the same topic

merits, we are of the opinion that the manner in which Pradip Tandon case ((1975) 1 SCC 267 : (1975) 2 761 : AIR 1975 SC 563) was sought to be distinguished was artificial apart from being unintelligible. Undoubtedly, the State in Pradip Tandon case ((1975) 1 SCC 267 : (1975) 2 761 : AIR 1975 SC 563) attempted to sustain the classification under Article 15(4) but that was not the crux of the matter. The reservation was in favour of candidates coming from a certain area to wit rural areas. Now if the amplification of what constitutes candidates coming from rural areas will not enlarge or restrict the operative portion, indisputably the reservation was for candidates coming from rural areas which were styled in Pradip Tandon case ((1975) 1 SCC 267 : (1975) 2 761 : AIR 1975 SC 563) as socially and educationally backward areas. It is true that one of the reasons which weighed with the Court in striking down reservation in Pradip Tandon case ((1975) 1 SCC 267 : (1975) 2 761 : AIR 1975 SC 563) was that the reservation was in favour of a majority. Such an argument though available in the present case was not advanced, because any day rural area is comparatively much larger in area and size and population to urban area in the State of Haryana. Therefore, we are not impressed by the submission that the judgment in Pradip Tandon case ((1975) 1 SCC 267 : (1975) 2 761 : AIR 1975 SC 563) is distinguishable. In fact, this Court in Arti Sapru case ((1981) 3 SCR 34 : (1981) 2 SCC 484 : 1981 SCC (L&S) 398 : AIR 1981 SC 1009) followed the decision in Pradip Tandon case ((1975) 1 SCC 267 : (1975) 2 761 : AIR 1975 SC 563).

11. Assuming that the decision in Pradip Tandon case ((1975) 1 SCC 267 : (1975) 2 761 : AIR 1975 SC 563) does not conclude the point as herein raised, the differential on which the classification is founded appears to us arbitrary and irrational. How arbitrary and irrational it is, can be demonstrably established. In order to take advantage of the reservation students from nearby urban areas can join common rural school on the periphery of urban agglomeration. All rural schools without an exception cannot be condemned as ill-housed, ill-staffed and ill-equipped. Agriculture in Haryana has been a very profitable pursuit and standard of life of average farmer in rural area has gone up compared to middle class and industrial workers and the slum dwellers whose children will attend as a necessity urban schools. And yet the better placed will enjoy reservation. Further the basis of classification based on education upto eighty standard is wholly irrational. And it has no nexus to the object sought to be achieved, of providing extra facility to students coming from rural schools to enter medical college.

12. What was the object sought to be achieved by the classification ? It was said that students taking education in common rural schools from first to eighth standard are at a comparative disadvantage to those taking education in urban schools in the same standards. The comparison in our opinion is fallacious for the reason that the same Government prescribes standards of education, equipment, grants and facilities including the qualification of the staff for being employed in urban and rural schools imparting instructions from first to eighth standard. However, as pointed out earlier, the knowledge acquired by the students while taking instructions in class I to VIII has hardly any relevance to his being equipped for taking the test for entrance to the medical college. The real challenge would come in standard XI and XII. In this behalf all students those coming from common rural school and urban school are similarly placed and similarly situated and yet by a reference to a past event wholly unrelated to the objects sought to be achieved, they are artificially divided.

13. It was however said that there was another discernible purpose in making the reservation. The urbanised students are disinclined to go to rural areas for practice or service and therefore if the students coming from rural common schools are encouraged to seek admission they may return after obtaining qualification to their childhood habitat and thus help extend efficient medical service to rural areas at present wholly neglected. It was urged if a region is woefully deficient in medical

services, there occurs serious educational and health service disparity for that human region which must be redressed by a Welfare State. It was submitted that the reservation was a step in this direction. This submission was sought to be supported by referring to Jagdish Saran v. Union of India ((1980) 2 SCR 831 : (1980) 2 SCC 768 : AIR 1980 SC 820). This approach overlooks the fact that even students educated in common rural schools would be joining urban schools for four years before going to medical college and then spend about five years in medical college. There is no guarantee save wishful thinking that they would return to rural areas. This is too flimsy a material to sustain classification.

14. We are therefore satisfied that the classification is not founded on intelligible differential and at any rate it has no rational nexus to the object sought to be achieved. The classification is irrational and arbitrary. The reservation based on such classification is constitutionally invalid.

15. Before we conclude, a reference to Sukhvinder Kaur v. State of Himachal Pradesh (AIR 1974 HP 35) may be made. In that case the High Court upheld reservation of 12 seats for candidates who have passed matriculation or higher secondary examination from schools located in the rural areas. The aforementioned reservation was upheld by merely observing that it does not appear to be unreasonable inasmuch as the children in the rural areas who usually attend such schools are socially, economically and educationally poor and they cannot compete with the children of their age-group coming from the urban area. The judgment does not refer to the material on which the finding was based that the children attending the schools in rural areas cannot compete with children of the same age-group coming from the urban areas. That apart the situation in that case was that the students took education upto the higher secondary examination in the schools situated in the rural areas and had thereafter straightway to compete for entrance to the medical college with students coming from urban areas. Such is not the situation before us. As pointed out earlier, in the instant case, the students in whose favour the reservation is made took education only upto the eighth standard in common rural school and for the last 4 years they were on par in every respect with students coming from urban areas. Therefore, this decision is of no assistance.

16. These were the reasons which weighed with us in allowing the writ petitions.

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